

Before the
Administrative Hearing Commission
State of Missouri



GREGORY DENNIS,)	
)	
Petitioner,)	
)	
vs.)	No. 14-0871 EC
)	
MISSOURI ETHICS COMMISSION,)	
)	
Respondent.)	

DECISION

We dismiss as moot the complaint filed by Steve Dennis appealing the Missouri Ethics Commission's ("MEC") assessment of late fees.

Procedure

On May 29, 2014, Dennis filed a complaint appealing the MEC's assessment of a late fee for his failure to file an annual personal financial disclosure statement ("PFD statement"). We served the MEC with a notice of complaint/notice of hearing on June 2, 2014, which scheduled a hearing on the complaint for September 29, 2014. On July 8, 2014, the MEC filed its answer. On August 5, 2014, the MEC filed a motion for summary decision, memorandum in support, and exhibits. We gave Dennis until August 22, 2014 to respond to the MEC's motion, but he failed to respond.

Findings of Fact

1. At all relevant times, Dennis was the elected mayor of Grandview, Missouri.

2. As the elected mayor of Grandview, Dennis was also an *ex officio* member of the Board of Trustees of the Little Blue Valley Sewer District.

3. At all relevant times, the Little Blue Valley Sewer District was a political subdivision of the State of Missouri, and had an annual operating budget in excess of \$1,000,000.

4. As of December 31, 2013, the Little Blue Valley Sewer District had not adopted its own ordinance, order, or resolution pursuant to § 105.485.4.

5. Dennis filed a PFD statement that the MEC received on May 12, 2014, eleven days after the May 1 filing deadline.

6. In a letter dated May 13, 2014, the MEC assessed a late fee against Dennis in the amount of \$110.00 pursuant to § 105.963.3.¹

7. Dennis filed a complaint appealing the MEC's assessment on May 29, 2014.

8. The MEC received a check from Dennis for the full amount of the late fee on August 1, 2014.

Conclusions of Law

We have jurisdiction of this matter.² Our duty is to decide the issues that were before the MEC.³ We must follow the same law that the MEC must follow.⁴ The MEC has the burden of proof.⁵

In this case, while the MEC filed a motion for summary decision, the facts and law it alleges in support of its motion clearly indicate that the remedy it actually seeks is a dismissal on grounds of mootness.⁶ Furthermore, the MEC's motion for summary decision seeks a decision

¹ Statutory references are to the 2013 Supplement to the Revised Statutes of Missouri.

² Section 105.963.4.

³ *Mo. Ethics Comm'n v. Wilson*, 957 S.W.2d 794, 798 (Mo.App. S.D., 1997).

⁴ *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

⁵ See *Heidebur v. Parker*, 505 S.W.2d 440, 444 (Mo. App. St.L.D. 1974).

⁶ See MEC's motion for summary decision, p. 1 ("There is no dispute as to the existence of the following material facts supporting the Ethics Commission's claim that the case should be dismissed as moot."); MEC's memorandum of law in support of motion for summary decision, p. 2 ("The case is moot because Petitioner Dennis has paid the late fee.").

that Dennis is still liable for the late fee.⁷ However, he clearly is no longer liable for the late fee because he paid it.⁸ Therefore, we treat the motion as one seeking involuntary dismissal of Dennis' complaint on grounds of mootness pursuant to 1 CSR 15-3.436(1)(B).⁹

A motion for involuntary dismissal may be granted if supported by a preponderance of admissible evidence. Admissible evidence includes an allegation in the complaint, stipulation, discovery response of the petitioner, affidavit, or other evidence admissible under the law.¹⁰ The MEC's motion is accompanied by documentary evidence, including authenticated business records of the MEC, which we find admissible. Therefore, we make our findings of fact based on this admissible evidence.

We may dismiss a complaint when it is moot. A case is moot when a decision on the merits would have no practical effect on an existing controversy or where it is impossible to grant any effective relief.¹¹ "When an event occurs that makes a tribunal's decision unnecessary or makes granting effectual relief by the tribunal impossible, the case is moot and generally should be dismissed."¹² Because Dennis paid the late fee assessed by the MEC—the very issue raised by his appeal—our further consideration of his complaint is rendered unnecessary.

Summary

We dismiss Dennis' complaint because it is moot. We cancel the hearing.

SO ORDERED on September 5, 2014.

\s\ Sreenivasa Rao Dandamudi

SREENIVASA RAO DANDAMUDI
Commissioner

⁷ MEC memorandum in support of motion for summary decision, p. 2.

⁸ See finding of fact number 8.

⁹ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

¹⁰ Regulation 1 CSR 15-3.436(3).

¹¹ *Rosenfeld v. Thoele*, 28 S.W.3d 446, 451 (Mo. App., E.D. 2000).

¹² *Hihn v. Hihn*, 235 S.W.3d 64, 68 (Mo. App., E.D. 2007).